

**Plaintiffs' Memorandum in Opposition  
to Joint Motion for Summary  
Judgment for Failure to Prove Fault  
Element of Public Nuisance Claims**

**Ex 4 – Reardon Tr. Excerpts**

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION  
4  
5  
6 \*\*\*\*\*

7 IN RE:  
8 NATIONAL PRESCRIPTION OPIATE MDL NO. 2804  
9 LITIGATION

10  
11 This document relates to: Case No. 17-MD-2804  
12  
13 All cases Hon. Dan A. Polster

14 \*\*\*\*\*

15 HIGHLY CONFIDENTIAL - SUBJECT TO  
16 FURTHER CONFIDENTIALITY REVIEW  
17 VIDEOTAPED DEPOSITION OF:

18 STEVE REARDON  
19 ALOFT BOSTON SEAPORT  
20 401-403 D Street  
21 Boston, Massachusetts

22 November 30, 2018 9:03 a.m.

23  
24 Darlene M. Coppola  
Registered Merit Reporter  
Certified Realtime Reporter

1 a prescription for -- only for the feeling. The  
2 most recent year for which there is data -- and  
3 then what I want to ask you is you were there in  
4 2010, right? You were at Cardinal in 2010,  
5 true?

6 MR. PYSER: Object to form.

7 A. Yes.

8 BY MR. PAPANTONIO:

9 Q. What were you doing in 2010?

10 A. I was the vice president of quality and  
11 regulatory affairs overseeing DC operations.

12 Q. And you were overseeing a man by the name  
13 of Eric Brantley, weren't you?

14 MR. PYSER: Object to form.

15 BY MR. PAPANTONIO:

16 Q. He worked under you, didn't he, Eric  
17 Brantley?

18 A. Correct.

19 Q. How many people were in your department in  
20 2010 that were actually reviewing -- doing the  
21 same type of reviews that Eric Brantley did?

22 MR. PYSER: Object to form.

23 Misstates evidence. Vague as to time.

24 A. In 2010. I believe there were three, to

1 BY MR. PAPANTONIO:

2 Q. All right. Well, let's take -- take a  
3 look at 1941.

4 MR. PAPANTONIO: Show him 1941.

5

6 (Exhibit No. 3 marked for  
7 identification.)

8

9 BY MR. PAPANTONIO:

10 Q. Now, Mr. Reardon, on the record you told  
11 us that Cardinal had a monitoring system in place.  
12 That was your testimony, correct?

13 A. Correct.

14 Q. Take a look at this, please. This is from  
15 Bill with McKesson and the subject is HDMA notes.  
16 It says "Gary and I attended the HDMA conference  
17 last week. These are my notes. Perhaps the most  
18 surprising revelation was Steve Reardon and  
19 Gilberto Quintero saying Cardinal does not report  
20 suspicious orders to the DEA, no upside."

21 Now, who is -- that's you. You're Steve  
22 Reardon, right?

23 A. Yes.

24 Q. And what year is this?

1 A. 2013.

2 Q. 2013. And you know who -- you know who  
3 this fellow is, Mahoney?

4 A. I believe I've met him at industry  
5 conferences.

6 Q. Well, you had dinner with him, didn't you?

7 A. Possibly.

8 Q. Yeah. And this says "perhaps the most  
9 surprising revelation was Steve Reardon and  
10 Gilberto Quintero saying Cardinal does not report  
11 suspicious orders to the DEA."

12 Sir, would you agree that if you don't  
13 report suspicious orders to the DEA you are  
14 breaking the law, correct?

15 MR. PYSER: Object to form.

16 BY MR. PAPANTONIO:

17 Q. You agree that you're breaking the law if  
18 you don't -- if you fail to comply with the CFRs,  
19 you're breaking the law?

20 A. We have --

21 MR. PYSER: Object to form. Calls  
22 for a legal conclusion.

23 A. We have an obligation to report suspicious  
24 orders.

1 BY MR. PAPANTONIO:

2 Q. And if you don't, you're breaking the law,  
3 true?

4 MR. PYSER: Object to form?

5 A. We're violating a regulation.

6 BY MR. PAPANTONIO:

7 Q. And a regulation is a law; is that  
8 correct?

9 MR. PYSER: Object to form.

10 A. I view it as a regulation.

11 BY MR. PAPANTONIO:

12 Q. Is it hard for you to say that your  
13 company was breaking the law, sir?

14 MR. PYSER: Object to form.

15 BY MR. PAPANTONIO:

16 Q. I mean, is that difficult for you this  
17 morning, to say, in light of what we're reading  
18 right here, that your company was breaking the law  
19 in not having a monitoring system?

20 MR. PYSER: Object to form.

21 Misstates evidence. Assumes fact not in -- not  
22 established.

23 A. We had a monitoring system. I don't know  
24 what the conversation was here. I don't recall

1 Q. Well, you remember the DEA actually going  
2 around and actually having PowerPoint  
3 presentations for people explaining in detail what  
4 the statute from 1971 meant, right, 1971?

5 A. Right.

6 Q. And they would go around and they would  
7 give actual seminars, and they would talk about  
8 the statute that was the CFR 1301.74. They would  
9 talk about the fact A) it's been around since  
10 1971, right?

11 MR. PYSER: Object to form.

12 A. Right.

13 BY MR. PAPANTONIO:

14 Q. And they would say, B) you, as a company,  
15 have a responsibility to make sure you comply with  
16 it, correct?

17 A. Correct.

18 Q. And C) if you don't, you're breaking the  
19 law, correct?

20 MR. PYSER: Object to the form.

21 BY MR. PAPANTONIO:

22 Q. Correct?

23 A. Violating the regulation, yes.

24 Q. Yes. And they even told you -- they

1 said -- the DEA was so specific as far back in  
2 1971 when this was -- when this was given to your  
3 company, that suspicious orders include orders of  
4 unusual size, orders deviating substantially from  
5 a normal pattern, and orders of unusual frequency.

6 Do you remember that?

7 MR. PYSER: Object to form.

8 A. Yes.

9 BY MR. PAPANTONIO:

10 Q. Do you remember those standards that  
11 were -- that were not only written in 1971 for all  
12 distributors that were selling narcotics, but they  
13 actually went around and met with companies and  
14 told them what their obligations were, correct?

15 DEA did that?

16 A. Correct.

17 Q. All right. And so you're saying that --  
18 according to this document that came from  
19 Mr. Mahoney, where you said that Cardinal is not  
20 reporting suspicious orders to DEA on advice of  
21 outside counsel, you said you never said that?

22 A. I did not.

23 Q. Well, sir, do you know Linden Barber?

24 A. Yes.

1 five drugs.

2 Sir, do you understand -- I'm just curious  
3 just about what you understand about the -- about  
4 the physiology of the human body where it comes  
5 into a possibility of a drug overdose.

6 Do you know how drug overdose takes  
7 place?

8 MR. PYSER: Object to form.

9 A. I do not.

10 Q. Have you taken any time in the 20 years  
11 that you've worked for the company to find out  
12 what happens in a overdose death? How does -- how  
13 does a young man die from an overdose death?

14 MR. PYSER: Object to form.

15 A. I don't know.

16 BY MR. PAPANTONIO:

17 Q. But were you aware that there were  
18 overdose deaths taking place all over the United  
19 States, right?

20 A. I was aware that some -- yes.

21 Q. You were aware that Cardinal was selling  
22 the very drugs that was -- that had the potential  
23 to cause overdose deaths, true?

24 MR. PYSER: Object to the form.

1 weren't you, sir?

2 I mean, part of your job was to be a  
3 leader in those positions, correct?

4 A. Correct.

5 Q. It says "Approximately February 2009  
6 through 2010, monthly oxy -- oxycodone sales to  
7 Florida practitioners steadily increased and well  
8 surpassed monthly oxycodone sales in the remaining  
9 states."

10 Now, did you know that Florida actually  
11 had the highest sales in the country during that  
12 period of time?

13 MR. PYSER: Object to form.

14 A. I was not aware.

15 BY MR. PAPANTONIO:

16 Q. But you were there in 2005, what was  
17 your -- daily, in 2005, you would review orders  
18 that would come in from the company, correct?

19 MR. PYSER: Object to form.

20 A. Not personally.

21 BY MR. PAPANTONIO:

22 Q. Not personally, but you had a department  
23 that did that. There was three of you all?

24 A. Correct.

1 Q. Out of 30,000 employees, there were three  
2 of you, correct?

3 MR. PYSER: Object to form. Asked  
4 and answered.

5 A. Correct.

6 BY MR. PAPANTONIO:

7 You see where it says "On July 1,  
8 2011, the State Health Officer and Surgeon  
9 General, Frank Farmer, issued a statewide public  
10 health emergency declaration in response to the  
11 ongoing problem of prescription drugs in the  
12 division of Florida titled the State General --  
13 State Surgeon General Declares Public Health  
14 Emergency Regarding Prescription Drug Abuse  
15 Epidemic.

16 Now, did you -- you reviewed, that didn't  
17 you?

18 MR. PYSER: Object to form.

19 A. Did not.

20 BY MR. PAPANTONIO:

21 Q. You didn't review the Surgeon General  
22 writing an article called State Surgeon General  
23 Declares Public Emergency Regarding Prescription  
24 Drug Abuse Epidemic in Florida?

1 law. That's 1971 CFR, right?

2 MR. PYSER: Object to form.

3 A. Right.

4 BY MR. PAPANTONIO:

5 Q. Here, this is talking about a letter.

6 September 2006, DEA sent a letter to Cardinal

7 detailing what your responsibilities were.

8 You see that?

9 A. Yes.

10 Q. Did you review a -- do you remember

11 reviewing a letter in 2006?

12 A. I did.

13 Q. It says "The letter reminded distributors

14 that they have a statutory responsibility to

15 exercise due diligence to avoid filling suspicious

16 orders that might be diverted into legitimate --

17 illegitimate channels and warned that the failure

18 to exercise such due diligence could provide a

19 statutory basis for revocation or suspension of

20 the distributor's registration."

21 And you know, sir, that Cardinal had

22 multiple -- had multiple suspensions of their

23 license to sell narcotics throughout the country

24 by this time?

1                   Q.     It says -- back on page 7 of that  
2     document, it says -- okay. So first of all, I  
3     want to be clear on something. 1971 was the first  
4     time that the company was told what the rules are,  
5     CFR, in selling narcotic drugs, 1971, correct?

6                   A.     Correct.

7                   Q.     And then this is talking about 2006. Tell  
8     me about -- was there anything in between 1971 and  
9     2006 where the DEA contacted you and told you what  
10    you were supposed to do?

11                  A.     I don't recall.

12                  Q.     Well, 2006 comes next. And then we go  
13    down here, "DEA" -- very last paragraph, "DEA sent  
14    a similar letter to all distributors" -- very last  
15    paragraph, "DEA sent a similar letter to all  
16    distributors including respondent" -- which is  
17    Cardinal, correct? Correct?

18                  A.     Correct.

19                  Q.     -- "on December 27, 2007. The letter  
20    reminded distributors of their obligation to  
21    maintain effective controls against diversion and  
22    emphasized it is the sole responsibility of the  
23    registrant."

24                   Would you underline that for me, please,

1 "the sole responsibility of the registrant"?

2 In other words, sir, you -- it would be  
3 improper for you to delegate a responsibility to a  
4 pharmacy to do your job for you. They -- your job  
5 was separate from their job as far as selling  
6 narcotics correct?

7 MR. PYSER: Object to form.

8 A. Correct.

9 BY MR. PAPANTONIO:

10 Q. You don't delegate your responsibility  
11 under CFR to somebody else. You couldn't do that,  
12 true?

13 A. Correct.

14 Q. And to do that would be illegal?

15 MR. PYSER: Object to form.

16 BY MR. PAPANTONIO:

17 Q. Correct?

18 A. It would be a violation if we didn't meet  
19 the requirements of the regulation.

20 Q. Let's go back to speeding tickets. A  
21 speeding ticket is a violation and it's illegal,  
22 isn't it?

23 MR. PYSER: Asked and answered.

24 BY MR. PAPANTONIO:

1 how a distributor should avoid breaking the law  
2 where it comes to selling narcotics, correct?

3 MR. PYSER: Object to form.

4 A. I was at the conference.

5 BY MR. PAPANTONIO:

6 Q. Actually, you had DEA agents face-to-face.  
7 You had a chance the talk to them face-to-face,  
8 didn't you?

9 A. If the opportunity presented, yes.

10 Q. Did it present itself?

11 A. I know at some conferences I interacted  
12 with DEA investigators. I don't recall if I  
13 specifically did at this one.

14 Q. Then the bottom paragraph -- it says "DEA  
15 also provides presentations and holds meetings  
16 with the industry trade group HDMA" -- Healthcare  
17 Distribution Management Association, HDMA -- "of  
18 which Cardinal is an active member."

19 Now, you actually went to HDMA meetings,  
20 didn't you?

21 A. Yes.

22 Q. And Cardinal truly was an active member as  
23 this says. You were an active member in HDMA,  
24 correct?

1 A. Correct.

2 Q. Between May 6, 2008 and December 31, DEA  
3 representatives gave presentations and held  
4 meetings with HDMA in Maryland, District of  
5 Columbia, and Florida and Virginia on 11  
6 occasions.

7 Did you go to any of these DEA meetings  
8 where they said, okay, these are the rules you got  
9 to play by?

10 MR. PYSER: Object to form.

11 A. I would say I was an attendee at at least  
12 some of them.

13 BY MR. PAPANTONIO:

14 Q. Do you remember being an attendee? Do you  
15 remember they gave PowerPoints and showed you  
16 specifics about what you could and couldn't do as  
17 a distributor?

18 MR. PYSER: Object to form.

19 A. That was essentially their agenda at every  
20 meeting, so I can't speak specifically to any of  
21 these meetings.

22 BY MR. PAPANTONIO:

23 Q. We have some of their PowerPoints we'll  
24 talk about this afternoon.

1 Do you see that?

2 And then last one says "Not enough  
3 people."

4 Do you see that?

5 A. Right.

6 Q. So --

7 A. So what that would mean is you have good  
8 people in the role. This is succession planning.  
9 You want to make sure you have enough people on  
10 your bench that are ready to go, so you would do  
11 succession planning. You would say, who's ready  
12 now, who's ready in 1 to 3 months, who's ready in  
13 6 to 12, et cetera. That's what that's all about.

14 Q. And you had 30,000 people working with the  
15 company, but you had three people in charge of  
16 quality regulatory, right?

17 MR. PYSER: Object to form.

18 A. Three people --

19 BY MR. PAPANTONIO:

20 Q. At corporate.

21 A. Looking at the ingredient limit reports.

22 Q. Right, exactly, three people. Is it three  
23 people or isn't it three people?

24 MR. PYSER: Object to form.

1 see. It says "ISO" -- what's an ISO. That's an  
2 immediate suspension order, right?

3 A. Right.

4 Q. "ISOs issued between November 28, 2007 and  
5 January 2008 based on DEA's conclusion that they"  
6 -- and we're talking about Cardinal here, right --  
7 "they failed to maintain effective controls  
8 against diversion," right? That's what it says?

9 MR. PYSER: Object to form.

10 BY MR. PAPANTONIO:

11 Q. Now, it says between 2007 and 2008, your  
12 company, based on DEA conclusions, failed to  
13 maintain effective controls against diversion,  
14 right?

15 MR. PYSER: Object to form.

16 BY MR. PAPANTONIO:

17 Q. That's what it says?

18 A. Right.

19 Q. Tell the jury what diversion is.

20 A. Diversion is the illegal distribution of  
21 controlled substances.

22 Q. This says "DEA immediately suspended  
23 respondent" -- that's Cardinal, right -- "based on  
24 its conclusion that for approximately two years

1 and two months, between August 2005 and October  
2 2007, the facility distributed over 8 million  
3 dosage units of hydrocodone-combination products  
4 to customers it knew or should have known were  
5 diverting hydrocodone into the -- into other than  
6 legitimate medical, scientific industrial  
7 channels."

8 That's what it says, right?

9 A. Right.

10 Q. And those were the very years that you  
11 were in charge of quality regulatory, correct?

12 A. Correct.

13 Q. 2005, I mean, this is talking about you  
14 right here, right, Mr. Reardon?

15 MR. PYSER: Object to form.

16 BY MR. PAPANTONIO:

17 Q. Am I right?

18 A. It's the time frame I was in the role.

19 Q. Right. And it -- so this says -- while  
20 you were in the role, you distributed 8 million  
21 pills to people that you knew or should have known  
22 were using those pills illegally, right?

23 MR. PYSER: Object to form.

24 Misstates evidence.

1 BY MR. PAPANTONIO:

2 Q. That's what it says, doesn't it?

3 A. Well, we distributed controlled substances  
4 that we purchased from licensed manufacturers to  
5 licensed pharmacies who dispensed them pursuant to  
6 prescriptions.

7 Q. And according to this, you knew, when you  
8 were doing that, that they were using them  
9 illegally. That's what this says, doesn't it?

10 MR. PYSER: Object to form.

11 BY MR. PAPANTONIO:

12 Q. It says you knew they were being used for  
13 illegal purposes?

14 A. I didn't know that.

15 MR. PYSER: Object to form.

16 Misstates evidence.

17 BY MR. PAPANTONIO:

18 Q. Well, that's what this --

19 MR. PYSER: Object to form.

20 Misstates evidence. You've got to give me a  
21 chance to get the objection on the record.

22 BY MR. PAPANTONIO:

23 Q. This -- well, let me read it again just so  
24 it's very clear. I think the jury can read this

1 all right, but it says --

2 MR. PYSER: You're not reading it  
3 clearly. You're missing words as you go through  
4 it.

5 BY MR. PAPANTONIO:

6 Q. Let's read it again. We won't miss any  
7 words.

8 "DEA" -- that's the Drug Enforcement  
9 Agency, correct, right?

10 A. Right.

11 Q. Those are the people that go after people  
12 who break the law where it comes to selling  
13 narcotics, right?

14 MR. PYSER: Object to form.

15 BY MR. PAPANTONIO:

16 Q. Right? They're the people in charge of  
17 going after people who break laws where narcotics  
18 are sold illegally, correct?

19 A. Correct.

20 Q. And it says "The DEA immediately  
21 suspended" -- what does that mean, "Immediately  
22 suspended Cardinal's license to sell narcotics"?  
23 What does that mean?

24 MR. PYSER: Object to form. It was

1 not Cardinal's license. It was one facility.

2 BY MR. PAPANTONIO:

3 Q. What does that mean?

4 No. Wait, wait, wait, no.

5 You don't -- first of all, he's trying to  
6 tell you what to say. And just in the rule  
7 vernacular, that's not how this happens.

8 But -- so let me ask the question this  
9 way. You know what respondent means, don't you?

10 In that situation, you know it's Cardinal,  
11 correct?

12 A. Correct.

13 Q. Okay. So it's saying Cardinal's license  
14 was suspended, correct?

15 A. But not every distribution center.

16 Q. I know. We're going to talk about a lot  
17 of them. We're just on number one right now,  
18 buddy.

19 MR. PYSER: Object to form.

20 BY MR. PAPANTONIO:

21 Q. So as number one, it was suspended,  
22 correct? Cardinal license was suspended by the  
23 very people who were in charge of making sure that  
24 narcotics are not sold to illegal purposes

1 throughout the country, yes or no?

2 MR. PYSER: Object to form.

3 A. Three distribution centers.

4 Q. Yes. Well, we -- there are a lot more  
5 here. Okay.

6 So anyway, you would agree with that  
7 though. And you knew or should have known that  
8 was going on. That's what this says, you knew or  
9 should have known it was going on?

10 MR. PYSER: Object to form.

11 A. We had a program in place that DEA  
12 approved.

13 BY MR. PAPANTONIO:

14 Q. That was your watch. 2005 through 2007  
15 was your watch, wasn't it?

16 A. And we had our report that DEA approved  
17 that we submitted to them on a regular basis.

18 Q. Well, it must not have been a very good  
19 report because here the DEA is busting you for not  
20 doing it right, correct?

21 MR. PYSER: Object to form.

22 A. It was a report they reviewed and approved  
23 with the trade association.

24 Q. Well, somebody didn't approve it because

1 here you're being busted for doing it illegally,  
2 correct?

3 MR. PYSER: Object to form.

4 BY MR. PAPANTONIO:

5 Q. Am I right? I mean, am I right?

6 MR. PYSER: Object to form.

7 A. Based on this -- based on this, the  
8 licenses were suspended.

9 BY MR. PAPANTONIO:

10 Q. Right. And based on this, you knew or  
11 should have known that the drugs were being used  
12 illegally --

13 MR. PYSER: Object to form.

14 BY MR. PAPANTONIO:

15 Q. -- based on this?

16 A. Based on this.

17 Q. All right. It says "The ISO noted that  
18 although the average retail pharmacy in Florida  
19 distributes less than 8,000 dosage units of  
20 hydrocodone per month, the ten retail pharma" --  
21 the ten retail, you see that number ten? -- "the  
22 ten retail pharmacies that respondent supplied  
23 distributed considerably more."

24 Do you see that? So we're talking about a

1 Florida average of 8,400. Do you understand that?

2 A. Yes.

3 Q. They're saying the typical Florida average  
4 is 8,400. Then this goes to say "Monthly averages  
5 at those ten pharmacies range from 11,000 to  
6 287,000 dosage units."

7 Let's see. My quick calculation that's  
8 about 30 times what the Florida average is, about  
9 30 times.

10 MR. PYSER: Object to form.

11 BY MR. PAPANTONIO:

12 Q. Do you see that?

13 MR. PYSER: Ongoing objection.

14 Ongoing objection to the use of this document.

15 BY MR. PAPANTONIO:

16 Q. 8,400 versus 287,000, about 30 times,  
17 right?

18 A. Correct.

19 Q. It says "The ISO alleged that the unusual  
20 size of some of the orders, among other factors,  
21 should have prompted Cardinal to conclude that  
22 orders were suspicious."

23 What does that mean, "orders were  
24 suspicious," within the vernacular of regulatory

1 as you've been involved with for so many years?

2 A. Unusual size, pattern, or frequency.

3 Q. Well, this is certainly an unusual size if

4 the average -- Florida average is 8,000 pills and

5 you're selling 280,000 pills.

6 That certainly is higher than the average,

7 isn't it?

8 MR. PYSER: Object to form.

9 BY MR. PAPANTONIO:

10 Q. Right?

11 A. Yes.

12 Q. Then it goes on to say "The ISO alleged

13 that the unusual size of some of the orders were,"

14 as you pointed out, suspicious -- "were suspicious

15 as that term is used in the regulations."

16 So the term "suspicious orders" is well

17 defined in regulations, isn't it, well defined,

18 isn't it?

19 MR. PYSER: Objection.

20 A. Unusual size, pattern or frequency.

21 BY MR. PAPANTONIO:

22 Q. "Respondents in other facilities seized

23 all distribution of controlled substances on the

24 day they received the ISO."

1 Do you see that?

2 MR. PYSER: Object to form.

3 BY MR. PAPANTONIO:

4 Q. In other words, it -- do you see that --

5 A. Yes.

6 Q. -- where I read that?

7 A. Uh-huh.

8 Q. In other words, it took an investigation  
9 by the drug enforcement agency to actually have --  
10 to stop the sale of these kind of numbers to these  
11 facilities, right?

12 MR. PYSER: Object to form.

13 BY MR. PAPANTONIO:

14 Q. That's what it took, you selling these  
15 numbers until they started their investigation,  
16 right?

17 A. It appears so.

18 Q. It says "DEA also issued an order to show  
19 cause to revoke the registration of Cardinal  
20 Health's Stafford, Texas" -- so first of all,  
21 we're talking about Florida, right? First -- the  
22 paragraph right at top talking about Florida, and  
23 then, underneath, all of a sudden now we're  
24 shifting to Texas.

1 and other facilities ceased all distribution of  
2 controlled substances on the date they received  
3 the ISO. And the ISO is an immediate suspension  
4 order, correct, right?

5 A. Correct.

6 Q. Then the next paragraph says "DEA also  
7 issued order to show cause to revoke registration  
8 of Cardinal Health's Stafford, Texas, facility  
9 based on failure to conduct appropriate due  
10 diligence.

11 "In addition, the three Cardinal Health  
12 distribution facilities that received ISOs, DEA  
13 also alleged that Cardinal Health failed to  
14 maintain effective controls against the diversion  
15 of controlled substances at three other  
16 facilities. In total, DEA had reason to believe  
17 that 7 of Cardinal Health's 27 distribution  
18 centers roughly 25 percent were not adhering to  
19 their responsibility as registrants."

20 You do see where I read that, right?

21 A. Correct, yes.

22 Q. I want to be sure about something. Not  
23 everybody can go out and sell narcotics, can they?

24 A. No.

1 MR. PYSER: Object to form.

2 A. Correct.

3 BY MR. PAPANTONIO:

4 Q. But here your company paid a fine of 35 --  
5 \$35 million -- \$34 million right? You paid a fine  
6 of \$34 million?

7 A. Correct.

8 Q. Nobody went to prison, as far as you  
9 know?

10 MR. PYSER: Object to form.

11 A. Not to my knowledge.

12 BY MR. PAPANTONIO:

13 Q. So let me -- let me make sure I've got  
14 this right. You know that this -- we're -- this  
15 document is a 2012 document.

16 Do you see the front of it? 2012,  
17 right?

18 A. Right.

19 Q. You had already been -- in 2008, had  
20 already been ordered to show cause and had  
21 already, in 2008, had some of these Florida  
22 facilities, these Florida pharmacies, have their  
23 license suspended, 2008. Do you remember the MOU  
24 for 2008?

1 MR. PYSER: Object to form.

2 A. Yes.

3 BY MR. PAPANTONIO:

4 Q. Well, tell the jury what you remember  
5 about the trouble that Cardinal got into in 2008.

6 MR. PYSER: Object to form.

7 BY MR. PAPANTONIO:

8 Q. What do you remember about that?

9 A. It was essentially a similar issue.

10 Q. The same thing, wasn't it? You were  
11 selling drugs and you weren't doing it pursuant to  
12 the way that the government told you you had to do  
13 it, correct?

14 MR. PYSER: Object to form.

15 BY MR. PAPANTONIO:

16 Q. 2008?

17 A. We -- we had a computer program approved  
18 by the DEA that we submitted to them, as  
19 requested, on a monthly basis. We had our  
20 employees in the cage involved --

21 Q. And you thought --

22 A. -- with the ability to raise their hand,  
23 to question orders, and report those to the DEA.

24 Q. Well -- and they did. In 2008, they

1 looked at what were you doing and they busted you  
2 for doing it wrong. They actually accused you of  
3 breaking the law again in 2008, right?

4 MR. PYSER: Object to form.

5 BY MR. PAPANTONIO:

6 Q. True? Do you remember 2008 or you want  
7 the see the document? You know what, let's go  
8 ahead and pull it out so we -- you have it in  
9 front of you?

10 You see it says "2008 Settlement and  
11 Release Agreement." You see that? This is  
12 virtually the same thing that we're looking at in  
13 2012, right?

14 MR. PYSER: Object to form.

15 A. Right.

16 BY MR. PAPANTONIO:

17 Q. It's the same thing. You were accused of  
18 the same thing. You did the same thing in 2008,  
19 and then didn't you promise them, in 2008, that  
20 you were going to have a system to solve all those  
21 problems?

22 MR. PYSER: Object...

23 BY MR. PAPANTONIO:

24 Q. You were going to put in place, your

1 obligation -- let me scratch that.

2 Your obligation after 2008 was to pay \$34  
3 million and put in place a system that the DEA  
4 thought was acceptable in monitoring your  
5 customers, correct?

6 MR. PYSER: Object to form.

7 A. In 2008 and after, I wasn't involved in  
8 that process, but I know there was a creation of  
9 an anti-diversion team that put together a new  
10 program based in consultation with the DEA. DEA  
11 came in and looked at that program and blessed it.

12 BY MR. PAPANTONIO:

13 Q. Right. In other words, if you had  
14 actually performed your program like you promised  
15 you were going to do, your -- that's what you told  
16 the government, we promise that we're going to do  
17 a program that you can approve of. That was what  
18 happened in 2008, right?

19 MR. PYSER: Object to form.

20 A. I can't speak to what was told to the  
21 government. I wasn't involved in that.

22 BY MR. PAPANTONIO:

23 Q. Did you ever see what the -- what your  
24 company agreed to in 2008 as far as putting

1 together an anti-diversion system?

2 A. I believe I saw the settlement.

3 Q. Yeah. And the settlement was that you

4 would have in place a system that prevented the

5 very kind of drug diversion that we're talking

6 about in 2012, correct?

7 MR. PYSER: Object to form.

8 A. In 2012, I can't speak to what the system

9 did or didn't do.

10 BY MR. PAPANTONIO:

11 Q. Well, we're looking at what the system did

12 because you were -- Lakeland was -- you had a

13 distribution center in Lakeland, didn't you?

14 A. Yes.

15 Q. And then -- okay. So that's 2008, when

16 you agreed to have a system that was in place for

17 anti-diversion, right?

18 And then you know that in 1971 the

19 government told you what you had to do to prevent

20 diversion, right? CFR told you clearly what you

21 had to do to prevent diversion, correct?

22 MR. PYSER: Object to form.

23 Misstates evidence.

24 BY MR. PAPANTONIO:

1 Q. All the way back to 1971, the government  
2 specifically told you what you had to do to  
3 maintain your license, correct?

4 A. That's when the regulation came.

5 Q. Right, 1971. So then in 2006 -- we just  
6 saw Rannazzisi. He writes you a letter and says,  
7 hey, you need to take another look at what you're  
8 doing, here's another -- here's another letter to  
9 tell you how you're supposed to do this properly,  
10 right, Rannazzisi with the DEA?

11 MR. PYSER: Object to form.

12 A. Right. And we looked at our program and  
13 we were submitting the DEA-approved report --

14 BY MR. PAPANTONIO:

15 Q. Right, exactly.

16 A. -- which during numerous cyclical  
17 inspections was reviewed and looked at, what our  
18 process was, without issue.

19 Q. And then nevertheless, in 2012, you're  
20 still breaking the law, correct?

21 MR. PYSER: Object to form.

22 BY MR. PAPANTONIO:

23 Q. 2012, you're still doing the same thing,  
24 breaking the law?

1 A. I would disagree.

2 MR. PYSER: Object to form.

3 BY MR. PAPANTONIO:

4 Q. We're going to go through it, but -- so so  
5 far -- let me just make sure we have this right,  
6 okay, because I want the jury to understand what  
7 you knew, when you knew it.

8 MR. PAPANTONIO: Could I get an  
9 Elmo, please, or is that -- is it on?

10 BY MR. PAPANTONIO:

11 Q. Here we go. So let's get this right.

12 1971, CFR, right, that tells you the law  
13 relating to narcotic distribution. You remember  
14 that -- you've read it, you've reviewed it, right?

15 A. Yes.

16 Q. Correct. Now, there's some other stuff in  
17 between here, but we know that in 2006 -- 2006,  
18 you got another letter from the DEA telling you  
19 again what your responsibilities were. Do you  
20 recall that? We already talked about that.

21 A. Yes.

22 Q. And then in -- the next year, 2007, you  
23 get another letter, another DEA letter, telling  
24 you what your responsibilities are, correct?

1 to put this down here, 2012. Why do you think I'm  
2 putting that down there?

3 MR. PYSER: Object to form.

4 Vague.

5 BY MR. PAPANTONIO:

6 Q. I'm putting it down there because of all  
7 the things that happened between 2007 and 2012,  
8 okay. As we go forward, we're going fill that in,  
9 so --

10 MR. PYSER: Object to form.

11 BY MR. PAPANTONIO:

12 Q. So the next thing that occurs is in  
13 2012 -- I'm going to leave a box here. We'll fill  
14 some stuff in as we go.

15 In 2012, the DEA, again, after 2008 --  
16 well, I forgot 2008. 2008 is up here and that's  
17 where you're busted for diversion, right? That's  
18 what I just showed you. That's where DEA busted  
19 you for improper diversion, right?

20 MR. PYSER: Object to form. Ongoing  
21 objection to the use of this document. Move to  
22 strike the document and all testimony concerning  
23 it.

24 BY MR. PAPANTONIO:

1 Q. Am I right?

2 A. There was an issue in 2008.

3 Q. 2008, right. So you're busted there?

4 MR. PYSER: Object to form. Object  
5 to the use of word "busted" on the document and in  
6 the testimony.

7 BY MR. PAPANTONIO:

8 Q. And when you were busted, some of it  
9 involved the same pharmacies that we're talking  
10 about in 2012, doesn't it?

11 MR. PYSER: Objection to form.

12 A. I don't have knowledge of that.

13 BY MR. PAPANTONIO:

14 Q. Well, let's go ahead and help -- see if I  
15 can help you with knowledge. Let's take it off  
16 here. Let's go back to the document. Let's go  
17 back to -- 4085.11 is where we are.

18 So you see where it says "The MOA"? Tell  
19 the jury what an MOA is.

20 A. Memorandum of understanding -- or  
21 agreement.

22 Q. So the MOA and corresponding settlement  
23 also required Cardinal Health to pay \$34 million  
24 in civil penalties. Now, you remember -- you

1 understand that's in 2008 where that's happening.

2 2008. You were -- 2008, you paid \$34 million,

3 right?

4 A. Correct.

5 Q. Nobody went to jail. You just paid \$34

6 million --

7 MR. PYSER: Object to form.

8 BY MR. PAPANTONIO:

9 Q. -- correct?

10 A. Correct.

11 Q. But again, just so it can be clear, a

12 child -- a young man selling three ounces of

13 marijuana on the street corner can go to jail for

14 that, can't he?

15 MR. PYSER: Object to form.

16 BY MR. PAPANTONIO:

17 Q. Am I right?

18 A. I don't know the specific laws around

19 that.

20 Q. Well, you were a police officer. Did you

21 ever arrest anybody for selling drugs?

22 MR. PYSER: Object to form.

23 A. Possession, not dealing.

24 BY MR. PAPANTONIO:

1 BY MR. PAPANTONIO:

2 Q. -- according to these documents?

3 MR. PYSER: Object to form.

4 Misstates evidence.

5 BY MR. PAPANTONIO:

6 Q. Well, let's go on. Your attorney says it

7 misstates it. Let's see if I misstated it, okay?

8 Read on with me.

9 MR. PYSER: Object to form.

10 BY MR. PAPANTONIO:

11 Q. It says "The MOA and corresponding  
12 settlement also required that Cardinal pay \$34  
13 million in civil penalties." That was in 2008 you  
14 had to do that, correct?

15 A. Correct.

16 MR. PYSER: Object to form.

17 BY MR. PAPANTONIO:

18 Q. That was a different incident where you  
19 were involved in the -- not following the law  
20 where it comes to distribution of narcotics. That  
21 was in 2008, correct?

22 MR. PYSER: Object to form.

23 A. 2008.

24 BY MR. PAPANTONIO:

1 Q. 2008, correct?

2 Then it goes on, "34 million in civil  
3 penalties and settlement of claims, potential  
4 claims for civil penalties made by the United  
5 States of America, for failing to report  
6 suspicious orders of controlled substances. Of  
7 that sum, Cardinal agreed to pay 16 million for  
8 conduct alleged to have occurred within the middle  
9 district of Florida," right?

10 Do you see that?

11 A. It's what it says. I was --

12 Q. Right.

13 A. -- not aware of that.

14 Q. So the very thing that we're looking at --  
15 you know where Lakeland, Florida is?

16 A. Yes.

17 Q. It's in the middle of Florida, isn't it?

18 A. Yes.

19 Q. In 2008 was the same problem that you had  
20 in middle Florida, correct? You paid a \$35  
21 million fine for it, correct?

22 A. Correct.

23 Q. And you -- and did you know prior to  
24 coming here that the Oxy Express actually

1 originated in Florida, started in Florida and went  
2 all the way up the East Coast? Has anybody ever  
3 told you that?

4 MR. PYSER: Object to form.

5 A. No.

6 BY MR. PAPANTONIO:

7 Q. First time you've ever heard the term "Oxy  
8 Express" was today, correct?

9 MR. PYSER: Object to form.

10 A. Correct.

11 BY MR. PAPANTONIO:

12 Q. It says "Middle district of Florida where  
13 respondent is located." So you actually had a  
14 business location right there where all of this  
15 was going on, right?

16 MR. PYSER: Object to form. Vague.

17 A. Correct.

18 BY MR. PAPANTONIO:

19 Q. "The remainder was appropriated -- was  
20 apportioned among the six other districts housing  
21 Cardinal Health distribution centers at issue in  
22 amounts of 1- to \$8 million."

23 Now, it says "Prior to the DEA and  
24 Cardinal Health MOA, the largest" -- I don't know

1 if you know this. But "Prior to the DEA and  
2 Cardinal 2008 MOA, the largest civil monetary  
3 penalty paid by a DEA registrant in violation of  
4 CSA was \$13 million."

5 That was McKesson. Do you remember when  
6 they were hit with -- McKesson was hit for \$13  
7 million?

8 MS. MONAGHAN: Object to form.

9 A. I'm familiar with it.

10 BY MR. PAPANTONIO:

11 Q. You followed the news, certainly. They  
12 were one of your competitors and you followed the  
13 news when they were busted for illegally complying  
14 with standards of the CSA?

15 MS. MONAGHAN: Object to form.

16 A. I was aware of it.

17 BY MR. PAPANTONIO:

18 Q. You were aware of it. Why were you aware  
19 that McKesson also had been accused by the DEA and  
20 paid a fine for improperly conducting business  
21 pursuant to the CFR? Why did you know about that?

22 MS. MONAGHAN: Object to form.

23 A. I believe I saw a DEA press release.

24 BY MR. PAPANTONIO:

1 Q. That's what I was going to ask. Press  
2 releases were sent out every time they were --  
3 every time they would -- they would create --  
4 revoke a license, every time they would do a  
5 immediate suspension. DEA would communicate that  
6 to all the distributors, correct?

7 MR. PYSER: Object to form.

8 A. I don't believe it came directly to  
9 distributors. It was either on their website or  
10 in a publication.

11 MR. PYSER: I also just want to  
12 pause for a second and note for the record that  
13 the attorney for McKesson objected to the last  
14 rounds of questions. I don't know if the court  
15 reporter can hear her because she's not mic'd up,  
16 but there were objections to some of the questions  
17 related to McKesson.

18 BY MR. PAPANTONIO:

19 Q. "Prior to the DEA and Cardinal Health 2008  
20 MOA, the largest monetary penalty paid the DEA  
21 registrant pursuant to the CSA was 13.25 million  
22 civil penalty against McKesson" -- it says against  
23 McKesson -- "in April of 2008. Standing alone,  
24 the civil penalties assessed against the

1 respondent surpassed the existing record

2 settlement in the McKesson case."

3 Sir, now you understand that what the --

4 what the DEA right here was doing, they were

5 putting you in what they call a penalty box,

6 correct? I mean you've heard the term penalty

7 box --

8 MR. PYSER: Object to form.

9 BY MR. PAPANTONIO:

10 Q. -- right?

11 A. Hockey term.

12 Q. Yeah, it's a hockey term. You know,

13 there's different penalty boxes, I guess.

14 But you know what a penalty box is,

15 right?

16 MR. PYSER: Object to form.

17 A. Yes.

18 BY MR. PAPANTONIO:

19 Q. And you know that you -- that your

20 organization --

21 MR. PAPANTONIO: 4391 please.

22 BY MR. PAPANTONIO:

23 Q. -- your organization was put in a penalty.

24 And we're talking about a penalty box right here

1 where your license is being suspended because  
2 you're not following the law. We can agree to  
3 that, right?

4 MS. MOORE: Reardon 12.

5

6 (Exhibit No. 12 marked for  
7 identification.)

8

9 MR. PYSER: Object to form.

10 BY MR. PAPANTONIO:

11 Q. Right?

12 MR. PYSER: Object to form.

13 A. We paid a fine.

14 BY MR. PAPANTONIO:

15 Q. Yes, you certainly did.

16 Now, it says -- if you look at the first  
17 page on this, it says Mike Kaufmann. Who is Mike  
18 Kaufmann?

19 A. Mike Kaufmann is currently the Cardinal  
20 Health CEO.

21 Q. What did you all do to Barrett?

22 MR. PYSER: Object to form.

23 BY MR. PAPANTONIO:

24 Q. Where's Barrett?

1 Q. And you felt like that's all you were  
2 supposed to do, identify the order and report it  
3 to the DEA? Is that your testimony?

4 MR. PYSER: Object to form.

5 Misstates testimony.

6 A. In two steps. In the second step of what  
7 we did, our employees in our distribution centers  
8 who were filling orders would also identify  
9 anything that they felt warranted further  
10 investigation and then contact the local DEA to  
11 make a determination as to whether or not they  
12 could ship it.

13 BY MR. PAPANTONIO:

14 Q. Well, sir, we're going to see -- you  
15 understand that you identified suspicious orders  
16 and shipped the narcotic anyway after you  
17 determined that it was a suspicious order. Your  
18 company did that routinely, didn't they?

19 MR. PYSER: Object to form.

20 Misstates evidence.

21 BY MR. PAPANTONIO:

22 Q. Yes or no?

23 A. The requirement was to report them.

24 Q. Okay. But -- so okay. So your -- in your

1 head, the only requirement was for you to report  
2 them? We can agree on that, right?

3 MR. PYSER: Object to form.

4 A. Correct.

5 MR. PYSER: Object to form. Asked  
6 and answered. Misstates testimony.

7 BY MR. PAPANTONIO:

8 Q. Report them? Is that your testimony?

9 A. That's what the regulation states.

10 MR. PYSER: Object to form.

11 BY MR. PAPANTONIO:

12 Q. And you know the regulation was written in  
13 1971, and it told you you had to do a lot more  
14 than just report the suspicious order to the DEA?  
15 You know that as we sit here today, that your  
16 obligation was to do more than report it to the  
17 DEA, correct?

18 MR. PYSER: Object to form.

19 A. Based on additional guidance from DEA that  
20 evolved over time, yes.

21 BY MR. PAPANTONIO:

22 Q. Wait a second. Now, you started -- you --  
23 right now we understand you're selling the drug  
24 all the way back to -- you know that they're

1 this demonstrative.

2 MR. PAPANTONIO: Yeah, okay, I hear  
3 you.

4 BY MR. PAPANTONIO:

5 Q. So the next thing is we find out you  
6 know -- well, actually, let's just show it to him.  
7 Show him 4008. Show him 4008, please.

8 Sir, tell me who -- you said you never met  
9 Mr. Rannazzisi, is that correct? You told me  
10 that?

11 A. Correct.

12 Q. Give one to your counsel there, if you  
13 would.

14 MR. PYSER: Thank you.

15 BY MR. PAPANTONIO:

16 Q. So this document, I don't believe you've  
17 ever seen, I don't think so. It's 2007. December  
18 2007, right?

19 MR. PYSER: Object to form.

20 A. Correct.

21 BY MR. PAPANTONIO:

22 Q. And it says right up at the top, Cardinal  
23 Health, and it gives the address, Syracuse,  
24 New York. Do you see that?

1 A. Yes.

2 Q. It says "Dear Registrant."

3 First of all, let's look at who it's from.

4 Look on the last page. You see who that's from

5 Joseph Rannazzisi. Do you see that?

6 A. Yes.

7 Q. And you knew Joseph, correct?

8 MR. PYSER: Object to form.

9 A. I knew of him.

10 BY MR. PAPANTONIO:

11 Q. You knew of him.

12 It says "Dear Registrant. This letter is

13 being sent to every entity in the United States

14 registered with the Drug Enforcement

15 Administration, DEA, to manufacture or distribute

16 controlled substances."

17 Then it says "The purpose of this letter

18 is to reiterate the responsibilities of controlled

19 substance manufacturers and distributors to inform

20 DEA of suspicious orders in accordance with 21

21 CFR."

22 Do you see that? And you're familiar with

23 what 21 CFR is, right?

24 A. Yes.

1                   Q.     "In addition to, and not in lieu of, the  
2     general requirement under 21 USC 823 that  
3     manufacturers and distributors maintain effective  
4     controls against diversion, DEA regulations  
5     require that all manufacturers and distributors to  
6     report suspicious orders of controlled  
7     substances."

8                   Do you see that?

9                   A.     Yes.

10                  Q.     And then it goes on to say, if -- if you  
11     look at the next paragraph, look at what that is  
12     controlling -- this control of suspicious orders.

13                  It says "The regulation also requires that  
14     the registrant inform local DEA division office of  
15     suspicious orders when discovered by the  
16     registrant."

17                  You're saying you did? That's your  
18     testimony, right?

19                  Right?

20                  A.     In using the ingredient limit report and  
21     the process that we employed by our -- used by our  
22     employees in the distribution centers.

23                  Q.     And we've seen the results of you using  
24     the ingredient report. We know that in 2008 that

1 you had to pay \$34 million fine because you were  
2 not following the laws pursuant to the CFR,  
3 correct? We've already talked about that, right?

4 A. That was the allegation.

5 Q. And you paid a \$34 million fine?

6 MR. PYSER: Object to form.

7 BY MR. PAPANTONIO:

8 Q. Correct? You didn't, but your company  
9 did?

10 A. Correct.

11 Q. And it says, if you look at the last  
12 paragraph -- the last line of that Paragraph  
13 3, it says "Reporting an order" -- here it is,  
14 "Reporting an order as suspicious will not absolve  
15 the registrant of responsibility if the registrant  
16 knew or should have known that the controlled  
17 substances were being diverted."

18 Right? That's what it says, isn't it?

19 It's very clear.

20 MR. PYSER: Object to form.

21 BY MR. PAPANTONIO:

22 Q. Right? "Reporting an order as suspicious  
23 will not absolve the registrant of responsibility  
24 if the registrant" -- underline "knew or should

1 have known," please -- "knew or should have known  
2 that the controlled substances were being  
3 diverted."

4 That's what it says?

5 MR. PYSER: Object to form.

6 A. Yes.

7 BY MR. PAPANTONIO:

8 Q. Did I read that right?

9 A. Yes.

10 Q. So in other words, sir, your  
11 responsibility is more than just reporting to the  
12 DEA. This is telling you that's not enough. You  
13 can't just report to the DEA and be absolved of  
14 your responsibility. You know that, don't you?

15 MR. PYSER: Object to form.

16 BY MR. PAPANTONIO:

17 Q. True?

18 A. As of the meeting they had in September of  
19 '07 and then subsequently this letter.

20 Q. Because truthfully, you weren't doing --  
21 you were not doing anything except sending in  
22 reports to the DEA. That's all you did, true?

23 MR. PYSER: Object to form.

24 Misstates evidence.

1 group.

2 Q. But you -- in other words, you weren't  
3 responsible for not doing this; is that correct?

4 MR. PYSER: Object to form.

5 A. Correct.

6 BY MR. PAPANTONIO:

7 Q. Let's go to the next page. It says --  
8 408516. It says -- let's pick up, you see where  
9 it says "The investigation at respondent revealed  
10 a persistent failure -- a persistent failure to  
11 exercise due diligence to ensure that controlled  
12 substances were not being diverted."

13 Do you see that?

14 A. Yes.

15 MR. PYSER: Object to form. Same  
16 objections on this document.

17 BY MR. PAPANTONIO:

18 Q. Now, DEA concluded that over a period of  
19 approximately three years, November 2008 to 2011,  
20 "Respondent's anti-diversion controls were  
21 inadequate to meet their due diligence  
22 responsibilities."

23 Do you see that?

24 MR. PYSER: Object to form.

1 A. Yes.

2 BY MR. PAPANTONIO:

3 Q. Underline that for me, please.

4 Because didn't you just tell me that when  
5 2007 came along and you knew what all the rules  
6 were that you started playing by those rules?

7 Isn't that what you told me earlier?

8 MR. PYSER: Object to form.

9 BY MR. PAPANTONIO:

10 Q. Right?

11 A. Yes, that was a transition.

12 Q. Yes. So you said there was a transition  
13 that took place, but it says right here, DEA  
14 concluded that over a period of approximately  
15 three years, November 2008 to 2011, respondent's  
16 anti-diversion controls were inadequate to meet  
17 their due diligence responsibilities.

18 That doesn't sound -- I mean, you told me  
19 that after 2007, you made this adjustment and you  
20 did things right.

21 Didn't you tell me that just earlier  
22 today?

23 MR. PYSER: Object to form. Ongoing  
24 objection on this document. Hearsay.

1 identification of orders that were stopped at the  
2 distribution center and questioned.

3 BY MR. PAPANTONIO:

4 Q. Right. So what we know is this: We know  
5 that all that you just described didn't work,  
6 because in 2008 you had to pay \$43 million fine  
7 for that system that you just described, right?

8 MR. PYSER: Object to form.

9 BY MR. PAPANTONIO:

10 Q. Correct?

11 MR. PYSER: Objection. Misstates  
12 evidence.

13 A. 34 million.

14 BY MR. PAPANTONIO:

15 Q. 34 million, excuse me. Okay.

16 And then we know this now, so 2007 is when  
17 you said there was this new change in how things  
18 were being done.

19 Remember, we talked about that, right?

20 A. Yes.

21 Q. The new change?

22 A. Yes.

23 Q. And after the new change took place in  
24 2007, this document says that even as late as 2011

1 that your respondent's anti-diversion controls  
2 were inadequate to meet their due diligence  
3 responsibilities. That's what that says, right?

4 MR. PYSER: Object to form. Ongoing  
5 objection to the use of this document.

6 A. Yes.

7 BY MR. PAPANTONIO:

8 Q. Am I right?

9 A. That's what it says.

10 Q. And then if you go to the next paragraph,  
11 it says "Between November 2008 and December 2011  
12 you -- Cardinal sold over 12.9 million dosage  
13 units of oxycodone to its top four retail pharmacy  
14 customers."

15 True?

16 MR. PYSER: Object to form.

17 BY MR. PAPANTONIO:

18 Q. That's what it says?

19 A. That's what it says.

20 Q. And it says "From 2008 to 2009,  
21 respondent's oxycodone sales to its top four  
22 retail pharmacies increased approximately  
23 803,000."

24 803,000.

1 MR. PYSER: Object to form.

2 BY MR. PAPANTONIO:

3 Q. Did you know that your company -- I mean,

4 we're -- do you understand that this is one year,

5 2008 to 2007.

6 I have to write this down. Give me a

7 piece of paper. Here it is. Make sure I've got

8 this right.

9 From 2008 to 2007, that Cardinal increased

10 their sales to this company by 803 percent?

11 MR. PYSER: Object to form.

12 BY MR. PAPANTONIO:

13 Q. Did you know that? That's a startling --

14 that's a big number. That's a big percentage

15 increase, isn't it, for a year between 2008 and

16 2009?

17 A. I don't know all the facts and

18 circumstances around it. I can't comment on it.

19 Q. You can't comment that an 803 percent

20 increase in one year in the sales of narcotics to

21 one customer is a big increase?

22 MR. PYSER: Object to form.

23 BY MR. PAPANTONIO:

24 Q. You don't know whether that's a big

1 increase or not?

2 MR. PYSER: Object to form.

3 A. It's to four customers, I think.

4 BY MR. PAPANTONIO:

5 Q. Oh, four customers.

6 A. Yeah.

7 Q. So all four customers, there was an 803  
8 percent increase?

9 MR. PYSER: Object to form.

10 BY MR. PAPANTONIO:

11 Q. And that doesn't seem like a big number to  
12 you?

13 A. On face value, it seems like a big number.

14 Q. Yeah. It says then, it says after that,  
15 "From 2009 to 2010," that's another one year,  
16 "respondent's oxycodone sales increased  
17 approximately 162 percent.

18 Do you see that?

19 MR. PYSER: Object to form.

20 BY MR. PAPANTONIO:

21 Q. And then between 2009 and 2011,  
22 respondent's oxycodone sale to its top four retail  
23 pharmacies increased 241 percent.

24 Now, sir, you have to agree, those are big

1 increase numbers for a year period of time, isn't  
2 it?

3 MR. PYSER: Object to form.

4 BY MR. PAPANTONIO:

5 Q. I mean, those are big numbers? For the  
6 increase of sale of narcotics, those are big  
7 increases of numbers, aren't they?

8 MR. PYSER: Object to form.

9 A. On the face, but I -- I think it -- at  
10 this time DEA continued to increase the quota for  
11 oxycodone, right?

12 BY MR. PAPANTONIO:

13 A. Let's see if they did, because it's going  
14 to talk about that right here.

15 It says "Compared to the advantage  
16 number" -- "Compared to the average number of  
17 dosage units distributed monthly to respondent's  
18 other Florida retail pharmacies, the average" --  
19 stay with me here -- "the average monthly  
20 distribution to respondent's top four customers is  
21 staggering."

22 That's their word, staggering. Do you see  
23 that?

24 MR. PYSER: Object to form.

1 BY MR. PAPANTONIO:

2 Q. Would you please circle the word  
3 "staggering."

4 MR. PYSER: Object to form. Move to  
5 strike Counsel's commentary at the beginning of  
6 the question.

7 BY MR. PAPANTONIO:

8 Q. Would you move -- would you please, madam,  
9 you have "staggering."

10 What does staggering mean to you, sir?

11 Staggering. The term staggering, what does that  
12 mean when you hear that's staggering, what does  
13 that mean to you?

14 A. Significant.

15 Q. Yeah, okay, I'll go with significant.

16 MR. PYSER: Object to form.

17 BY MR. PAPANTONIO:

18 Q. It says "Respondent's other Florida retail  
19 pharmacies received on average," is that --  
20 "received on average 5,364 dosage units per month  
21 from October 1, 2008 to December 2011."

22 Do you see that?

23 The average per month -- put an arrow next  
24 to that, if you would, the dosage, 5,364, put an

1       arrow next to that, because I want to make a  
2       comparison.

3                   And then it says "Units per month, October  
4       2008 through 2011, based on 66,286 pharmacies."

5                   So, in other words, you understand that  
6       DEA took 66,000 pharmacies and they said the  
7       average number for those pharmacies is only 5,364.

8                   Do you see that?

9                   MR. PYSER: Object to form.

10          A.     Yes.

11          BY MR. PAPANTONIO:

12          Q.     And then it goes on to say, "In contrast"  
13       -- do you see where it says "In contrast"?

14                   "In contrast, CVS 5195 received  
15       approximately 58,000 dosage units per month from  
16       respondent."

17                   That would be -- that would be your  
18       company, Cardinal, right?

19                   MR. PYSER: Object to form.

20          BY MR. PAPANTONIO:

21          Q.     Right?

22          A.     Right.

23          Q.     So the average dosage is 5,300, and you  
24       were shipping to your customer 58,223 units,

1

2 (Recess taken from 2:50 p.m.

3 to 3:06 p.m.)

4

5 THE VIDEOGRAPHER: The time is 3:06  
6 p.m., on the record.

7 BY MR. PAPANTONIO:

8 Q. So looking at 4085 still, the document  
9 we've been dealing with most of the day, it says,  
10 4085.22. Look for the .22.

11 It says "Low numbers of suspicious orders  
12 reported."

13 So on -- there on 22, it says "Low numbers  
14 of suspicious orders reported. Respondent's  
15 electronic suspicious order monitoring system  
16 flags certain orders as suspicious, which required  
17 respondent to place a hold on the order until it  
18 decides whether to release the order or cancel --  
19 or cut the order."

20 Then it says this -- highlight this,  
21 please, for me.

22 "From October 1, 2008, through  
23 October 26, 2011, respondent reported only 41  
24 suspicious orders to DEA."

1 So in four years, your company reported 41  
2 suspicious orders, according to this. And you  
3 don't have any way -- you don't have any -- you  
4 don't dispute that, you do?

5 MR. PYSER: Object to form.

6 A. That's what it states.

7 BY MR. PAPANTONIO:

8 Q. "Based on information provided by  
9 Cardinal, respondent suspended sales of controlled  
10 substances to 19 DEA registrants from December  
11 2010 to October 2011 at the service of the AIW."

12 You remember what the AIW is?

13 MR. PYSER: Same ongoing objections  
14 to this document.

15 BY MR. PAPANTONIO:

16 Q. Do you remember the AIW? It was a  
17 warrant, right?

18 A. Right.

19 Q. And it says "Only three of the 41  
20 suspicious orders reported were orders from 19  
21 customers respondent suspended."

22 "Only 3 of the 41 suspicious orders  
23 reported were orders from the 19 customers  
24 respondent suspended."

1 Now, it goes on and says "Between October  
2 26, 2011," the day following the execution of the  
3 AIW, "and January 31, 2012, respondent terminated  
4 28 customers."

5 So according to this, Cardinal gets  
6 wind -- well, they actually get copies of the fact  
7 that the -- the warrants have been issued for  
8 their facilities, right, Cardinal businesses?

9 MR. PYSER: Object to form. Calls  
10 for speculation.

11 BY MR. PAPANTONIO:

12 Q. Right?

13 A. That's...

14 Q. That's what it says?

15 A. I don't know. I mean, it says that the  
16 service of.

17 Q. Yeah, right. So after --

18 MR. PYSER: Object to form.

19 BY MR. PAPANTONIO:

20 Q. After the -- after they receive the AIW,  
21 the warrant, then respondent terminated 28  
22 customers after they received that warrant.

23 That's what that says, doesn't it?

24 MR. PYSER: Object to form.

1 A. That's what it states.

2 BY MR. PAPANTONIO:

3 Q. So you really only terminated 28 customers  
4 because the DEA had filed an AIW, a warrant,  
5 true?

6 MR. PYSER: Object to form. Calls  
7 for speculation.

8 A. I can't speak to that. I wasn't part of  
9 this team.

10 BY MR. PAPANTONIO:

11 Q. Sir, but you understand that this team --  
12 this team that you keep saying "this team," --  
13 this team was working for Cardinal, correct?

14 MR. PYSER: Object to form.

15 A. Correct.

16 BY MR. PAPANTONIO:

17 Q. Is that right?

18 A. Correct.

19 Q. And you were in corporate up in Columbus,  
20 Ohio with Cardinal, correct?

21 MR. PYSER: Object to form.

22 A. Correct.

23 BY MR. PAPANTONIO:

24 Q. And part of your job was to oversee, as

1                   A.    That's -- I can't speak to that.   That's  
2                   what it states.

3 BY MR. PAPANTONIO:

4 Q. Okay. "Additionally, GS Carter will  
5 testify respondent knew or should have known that  
6 the large quantities of oxycodone it distributed  
7 to its top four customers were not being dispensed  
8 for legitimate medical purposes.

16 Do you see that?

17 MR. PYSER: Object to form.

18 BY MR. PAPANTONIO:

19 Q. Now --

20 A. That's what it states.

21 Q. -- understand, this is -- this is to your  
22 company, first of all --

23 I left something out as far as the number  
24 of times that your company was put on notice of

1 supplier of respondent's, had noticed high  
2 oxycodone sales to three Florida pharmacies and  
3 asked that CVS go out to the three pharmacies to  
4 ensure that oxycodone purchases were legitimate."

5 Now, it would be completely improper and  
6 absolutely violating the regulations to ask CVS to  
7 monitor itself, wouldn't it?

8 MR. PYSER: Object to form.

9 BY MR. PAPANTONIO:

10 Q. You would agree that it would be totally  
11 improper to ask one of your customers to go out  
12 and check to see if things were being done  
13 right?

14 MR. PYSER: Object to form.

15 BY MR. PAPANTONIO:

16 Q. Right? That would be wrong, wouldn't  
17 it?

18 MR. PYSER: Object to form.

19 A. I would think you would want an employee  
20 to visit.

21 BY MR. PAPANTONIO:

22 Q. And the next page, the very top, it says,  
23 .3, "She will further testify that respondent  
24 not -- that had respondent not relied on CVS to

1 conduct their own due diligence and had CVS  
2 properly conducted due diligence, respondent and  
3 CVS would have been aware that their sales of  
4 controlled substances were being diverted to  
5 illegitimate channels."

6 That's what Miss Carter said, right?

7 MR. PYSER: Object to form.

8 A. That's what she said.

9 MR. PAPANTONIO: Let's go and  
10 introduce 4093, the declaration of Michael  
11 Leonhart -- excuse me, Michele Leonhart. Let's  
12 introduce that.

13

14 (Exhibit No. 28 marked for  
15 identification.)

16

17 MS. MOORE: This is Cardinal Reardon  
18 28.

19 BY MR. PAPANTONIO:

20 Q. Now let me ask you something. You  
21 understand what the standards of -- the industry  
22 standards of how a company should conduct  
23 business. You understand what an industry  
24 standard is, right?

1 quantified as constituting an imminent danger to  
2 public health and safety?

3 Had anybody ever he told you the conduct  
4 of those pharmaceutical companies, those  
5 pharmacies we're talking about, that the conduct  
6 had actually risen to being an imminent danger to  
7 the public health and safety?

8 MR. PYSER: Object to form.

9 A. I had not heard that.

10 BY MR. PAPANTONIO:

11 Q. Well, now that you have, look at page  
12 18 of this affidavit that you have in front of  
13 you, this declaration by Michele Leonhart. Take a  
14 look at that. Look at page 18.

15 MR. PYSER: Object to form, and move  
16 to strike "now that you have" commentary by  
17 Counsel.

18 BY MR. PYSER:

19 Q. Do you see that page 18?

20 A. Yes.

21 Q. It says "Collectively, these findings led  
22 me to conclude that Cardinal, Lakeland's continued  
23 registration while these proceedings are pending,  
24 constitutes an imminent danger to the public

1 health and safety."

2 And then you see where down there, it says  
3 "Possibility of public harm resulting from" -- you  
4 see where it says "possibility of public harm"?

5 A. Yes, I see that.

6 Q. You understand that's how they're  
7 describing the company that you're selling  
8 narcotics to is that the conduct is so bad,  
9 they're describing it as imminent danger to the  
10 public health and safety?

11 Is that the first time you've seen that?

12 MR. PYSER: Object to form.

13 A. This? Yes.

14 BY MR. PAPANTONIO:

15 Q. I'm sorry. That is the first time you saw  
16 that?

17 A. Yes.

18 Q. I want you to go to page 35 of document  
19 4085 that we've been talking about all day.

20 Do you see where it says,  
21 "November 18, 2008, CareMed's owner, Roscoe Heim,  
22 stated on a survey response that he used the  
23 following distributors: Cardinal, API, ExpertMed,  
24 Spectrum, PCCA, Hawkins, and Masters."

1 letter.

2 BY MR. FULLER:

3 Q. And you didn't know that before today; is  
4 that right?

5 A. My focus was on the regulation.

6 Q. You were focusing on the suspicious order  
7 requirements, right?

8 A. Right.

9 Q. Okay. So that's one part of the system,  
10 correct?

11 And according to Mr. Rannazzisi the United  
12 States Code enacted by Congress, the other part is  
13 to maintain effective controls against diversion,  
14 correct?

15 MR. PYSER: Object to form.

16 A. It seems to appear that way.

17 BY MR. FULLER:

18 Q. And let's talk as a moral company. If  
19 you're going to operate a company that operates  
20 with a moral basis, you're dealing with highly  
21 addictive and dangerous medications, particularly  
22 in Schedule IIs, are you not?

23 A. Yes.

24 Q. And you want to maintain effective

1 controls against diversion, don't you?

2 A. That would make sense, yes.

3 Q. And I mean, you want to protect the public  
4 from the harm that these drugs can do. That's why  
5 we have this closed system, isn't it?

6 MR. PYSER: Object to form.

7 A. We want to meet the requirements that will  
8 take us in that direction.

9 BY MR. FULLER:

10 Q. Well, do you also want to protect the  
11 public from the harm that these drugs can cause?

12 MR. PYSER: Object.

13 A. I think we do that by meeting the  
14 requirements.

15 BY MR. FULLER:

16 Q. So you would agree that we have two  
17 separate requirements, based on Mr. Rannazzisi's  
18 letter, right?

19 A. That's what it appears to be.

20 Q. Do you disagree with that?

21 A. No. I'm going by the letter that --

22 Q. And this is a letter you read back in  
23 2006?

24 A. Yes.

1 before? It appears to be an ingredient limit  
2 report, correct?

3 A. Not in this format, but yes.

4 Q. It is an ingredient limit report?

5 A. Yes.

6 Q. And this is something Cardinal kept in the  
7 normal course of business; is that right?

8 A. Yes.

9 Q. And I'll represent to you that Cardinal's  
10 produced this to the plaintiffs in this case,  
11 amongst other ingredient limit reports, some of  
12 them going back to 2005. We should have, at least  
13 according to your testimony, ingredient limit  
14 reports going back prior to that; is that right?

15 MR. PYSER: Object to form. You can  
16 testify about what you should have.

17 A. It was implemented '94, '95.

18 BY MR. FULLER:

19 Q. So you believe ingredient limit reports  
20 started being created by Cardinal in 1994 or '95.

21 Correct?

22 A. Correct.

23 Q. And it's your understanding that these  
24 documents were provided to the DEA; isn't that

1 true?

2 A. Correct, on a monthly basis.

3 Q. And it's also your testimony that this

4 document, this 535-page document, if I can get my

5 copy.

6

7 (Brief pause in proceedings.)

8

9 MR. FULLER: You stay right there.

10 MR. PYSER: Move to strike.

11

12 (Brief pause in proceedings.)

13

14 BY MR. FULLER:

15 Q. These, again, were kept in the normal  
16 course of business at Cardinal and provided to the  
17 DEA; is that correct?

18 A. Correct.

19 Q. And this is 535 pages of suspicious  
20 orders; isn't that true?

21 A. I haven't counted the pages, but...

22 Q. If you go to the last page, I think it  
23 will tell you what it was.

24 MR. PYSER: I'm going to object to

1 the claims and the length of this. The way it's  
2 presented has added significantly to the page  
3 number.

4 MR. FULLER: This is the way it was  
5 produced.

6 A. Not the format that it typically comes  
7 in.

8 BY MR. FULLER:

9 Q. Fair enough. You may see it in a  
10 different format?

11 A. Yes.

12 Q. But this document is inclusive of, at  
13 least out of the Wheeling distribution center,  
14 right you see that at the top?

15 A. Yes.

16 Q. Out of the Wheeling distribution center  
17 for July of 2007, if this report was run  
18 accurately and produced to us in the format that  
19 Cardinal kept it in, this would be how many ever  
20 pages are here, I'm saying there's 535, whatever  
21 the page count is, this is all suspicious orders,  
22 right?

23 A. Based on the criteria that the DEA agreed  
24 to.

1 Q. Based on whatever. These are all  
2 suspicious orders under your CFR reporting  
3 requirement, correct?

4 A. Correct.

5 Q. And Cardinal shipped all these orders out  
6 into our communities across the country, didn't  
7 they?

8 MR. PYSER: Object to form.

9 A. It may have been some that were caught at  
10 the distribution center and investigated.

11 BY MR. FULLER:

12 Q. Well, this report isn't generated until  
13 the end of the month, right?

14 A. But it's a two-step process.

15 Q. I understand, but just listen to my  
16 question.

17 This report isn't generated until the end  
18 of month, correct?

19 A. Correct.

20 Q. And any shipments that have gone, have  
21 long gone out because it's usually 24-hour  
22 turnaround, correct?

23 A. Correct.

24 Q. So if you look, there's, actually, I

1 think, a run date of August 5, 2007 on here,  
2 right?

3 A. Yes.

4 Q. So these orders were gone by the time this  
5 report was printed. You agree?

6 A. Correct.

7 Q. We'll come back to that document in just a  
8 minute, but you're talking about the second part  
9 of this process.

10 The second part of this process is for  
11 pickers and checkers to pick up on excessive  
12 orders in the distribution centers; is that true?

13 A. Correct.

14 Q. And pickers and checkers are the people  
15 filling the orders at the distribution facilities,  
16 right?

17 A. Correct.

18 Q. And if a picker and checker finds an order  
19 that exceeds some sort of internal limit, then  
20 they are to pull that order and report that  
21 specific order as suspicious; isn't that right?

22 A. They're required to -- not necessarily a  
23 limit. If something they see based on their  
24 experience with the customer or other customers,

1 A. Correct.

2 Q. When you were over and you saw all those  
3 distribution centers that you oversaw across the  
4 entire country -- and let's be clear. This is a  
5 systemic approach, right? And by that, I mean  
6 you're applying the same systems to the entire  
7 country from Washington state all the way down to  
8 Florida, correct?

9 A. It was the same system.

10 Q. And you expected it to be implemented the  
11 same way in all your distribution centers; is that  
12 fair?

13 A. That's fair.

14 Q. And you were trying to ensure that  
15 everybody was trained on the system and that it  
16 was being operated in the same form or fashion,  
17 whether it was in Lakeland, Florida, Wheeling,  
18 West Virginia, or -- I think it's Valencia,  
19 California, right?

20 A. Correct.

21 MR. PYSER: Counsel, let's take a  
22 little break. We've been going about an hour.  
23 It's getting late in the day.

24 THE VIDEOGRAPHER: The time is 4:55

1 A. Correct.

2 BY MR. FULLER:

3 Q. And you don't know, sitting here today,  
4 what the result of that was that Cardinal  
5 conducted or should have conducted?

6 MR. PYSER: Object to form.

7 A. It would have been conducted by the  
8 anti-diversion team.

9 BY MR. FULLER:

10 Q. Let's do the pill comparison, please. So  
11 during the time frame that you were there, part of  
12 your job was to look for -- we talked about  
13 suspicious orders and to look for patterns,  
14 right?

15 A. Correct.

16 Q. Did you -- well, you testified earlier you  
17 didn't look at any pill counts, correct?

18 MR. PYSER: Object to form.

19 A. I did not personally.

20 BY MR. FULLER:

21 Q. Well, let's start. So Ohio is -- I mean,  
22 you know where Ohio is. You were based in  
23 Columbus or the Columbus area, correct?

24 A. Correct.

1 Q. Illinois is two states over. Are you  
2 aware that the states are similarly situated? I  
3 mean, Illinois has about a million more people  
4 than Ohio. Are you aware of that?

5 A. No.

6 Q. Both considered midwest states. Can we  
7 agree on that?

8 A. Yes.

9 Q. And it's a neighboring state. It's got  
10 some unimportant state in between the two of them,  
11 right?

12 A. Yes.

13 Q. Kidding. They're geographically similar.  
14 They're similar in size and, based on my  
15 representations, about the same population, right?

16 A. Yes.

17 Q. And if we're looking at pills distribution  
18 across the entire country, we can say safely  
19 there's probably not -- or shouldn't be a  
20 significant difference between Ohio and Illinois,  
21 fair enough?

22 MR. PYSER: Object to form. Calls  
23 for speculation testimony.

24 A. I wouldn't know enough about it to --

1 BY MR. FULLER:

2 Q. If we saw a significant difference, it  
3 might be something we would want to look into,  
4 correct?

5 MR. PYSER: Object to form.

6 A. May raise a question to say why.

7 BY MR. FULLER:

8 Q. Let me ask. You're a cop, worked the  
9 street, right, here in Boston, correct?

10 A. Outside of Boston.

11 Q. Outside of Boston. If you were driving  
12 doing your patrol and you see something suspicious  
13 going on, you're going to take initiative and  
14 investigate it, aren't you?

15 MR. PYSER: Object to form.

16 A. Yes.

17 BY MR. FULLER:

18 Q. May not be that there is anything with it.  
19 There may not be any laws being broken, but until  
20 you do your investigation you're not going to know  
21 that, are you?

22 A. Correct.

23 Q. I mean, I don't want to insult you, but  
24 let's go back. I prosecuted a ton of DUIs. You

1 may see somebody weaving on the road. Well,

2 doesn't mean they're drunk, does it?

3 A. Not necessarily.

4 Q. But it's an indicator, hey, there may be

5 something going on. It could be a health concern.

6 It could be that they're texting and driving at

7 least now probably, not when you were a cop not,

8 when I was a prosecutor. But that's the type of

9 thing you would want to investigate to see what

10 the issue is, correct?

11 A. Correct.

12 Q. So let's look at the comparison between

13 Illinois and Ohio. Let's go for 2006. 4.9

14 million -- and this is just oxycodone, okay? You

15 understand?

16 A. Yes.

17 Q. Okay. 4.9 million dosage units, pills,

18 into Illinois. 67 million pills into Ohio in the

19 same year. This is just Cardinal alone. That

20 causes you some concern, doesn't it,

21 Mr. Reardon?

22 MR. PYSER: Object to form.

23 A. It would --

24 BY MR. FULLER

1 Q. Now --

2 A. -- warrant a further look.

3 Q. Exactly. We're not saying that there's

4 anything nefarious going on yet, but we're not

5 going to know unless we investigate, are we?

6 A. Correct.

7 Q. And we both know Cardinal had this

8 information. This is your sales data. And I say

9 yours. I mean the royal you and Cardinal,

10 correct?

11 A. Correct.

12 Q. Somebody could have had this information

13 pulled, right?

14 A. (Witness nodding.)

15 Q. In 2006, you've already told us -- Mr.

16 Hartman has already testified, as well as others,

17 that we are in the middle of an opioid crisis, we

18 should be doing comparisons like this. Would you

19 agree with that?

20 MR. PYSER: Object to form.

21 A. It would make sense.

22 BY MR. FULLER:

23 Q. So let's go to 2007. 5.9 million in

24 Illinois. 72 million in Ohio. Again, huge

1 disparity.

2 MR. FULLER: Let's keep going, Gina.

3 BY MR. FULLER:

4 Q. 2008, 2009, 2010, 2011, 2012. Let's stop  
5 there for a second.

6 2012, 10 million pills into Illinois, 100  
7 million pills into the state of Ohio with a  
8 million less people. This pattern causes you  
9 concern, sitting here today, doesn't it,

10 Mr. Reardon?

11 MR. PYSER: Object to form.

12 A. It raises the question of why.

13 BY MR. FULLER:

14 Q. Exactly. Let's keep going, 13, 14.

15 Mr. Brantley raised a good question, well, did we  
16 have more customers in Ohio than we did Illinois?

17 Let's go. Cardinal customers in Illinois,  
18 1,716. Cardinal customers in Ohio, 1,744. We can  
19 agree that statistically that's close enough,  
20 right?

21 MR. PYSER: Object to form.

22 BY MR. FULLER:

23 Q. That's not going to provide the  
24 explanation for the significant difference between

1 the two states, is it?

2 A. I think you have to dig deeper --

3 Q. So that's my question.

4 MR. PYSER: Were you done with your  
5 answer?

6 BY MR. FULLER:

7 Q. Go ahead.

8 A. -- and determine types of customers.

9 Q. So you tell me who at Cardinal -- because  
10 they had this information, who was it that dug  
11 deeper?

12 MR. PYSER: Object to form.

13 A. I don't -- I don't have that knowledge.

14 BY MR. FULLER:

15 Q. I mean, you would agree with me, would you  
16 not, that it shouldn't take a lawsuit against  
17 Cardinal before it would look into something like  
18 this going on in its company, correct?

19 MR. PYSER: Object to form.

20 A. Correct.

21 BY MR. FULLER:

22 Q. So there we have it, 798 million dosage  
23 units for that time frame into a population of  
24 11.7 million for Ohio. Only 76 million with a

1 million more people, 12.8, correct?

2 A. Correct.

3 Q. I mean, sitting here today, you didn't  
4 know this before today, right?

5 A. No.

6 Q. No one shared this with you? No one  
7 pulled the numbers for you even back when you were  
8 there at Cardinal, correct?

9 A. Correct.

10 Q. I mean, do you find that shocking, that  
11 disparity? I mean, it's ten times the amount of  
12 pills.

13 A. I -- I still think you need to dig deeper,  
14 customers.

15 Q. Now, we also know -- and the jury will  
16 have heard by now -- that back in 2003 the GOA,  
17 Government Office of Accounting, did a report,  
18 OxyContin and its abuse and -- abuse and addiction  
19 or something like that and they found that opioid  
20 epidemic was hitting certain states more than  
21 others. That would also be something that  
22 Cardinal would want to be aware of. Can we agree  
23 with that?

24 A. I think so.

1 Q. I mean, let's go back to our -- again, our  
2 investigative days. You want to gather all the  
3 information you can, correct --

4 MR. PYSER: Object to form.

5 A. Correct.

6 BY MR. FULLER:

7 Q. -- particularly when you're one that has  
8 been entitled, been privileged with the ability to  
9 operate in this closed system. Cardinal -- no one  
10 forced this licensing, this registrant status, on  
11 Cardinal, did they?

12 A. No.

13 Q. Cardinal went out and wanted to get into  
14 this business so they could distribute and make  
15 money, correct?

16 A. Correct.

17 Q. But they took on an obligation when they  
18 did that. We've looked at that. Based on  
19 Rannazzisi's letters, they took on obligations to  
20 ensure to do the best job they could to keep our  
21 community safe, right?

22 A. Correct.

23 Q. And doing an analysis of this kind of  
24 data, this disparity between Illinois and Ohio, is

1 part of what follows within that obligation,  
2 doesn't it?

3 MR. PYSER: Object to form.

4 A. It would warrant a look to see why the  
5 disparity -- the digger.

6 BY MR. FULLER:

7 Q. Like you said --

8 A. Deeper down.

9 Q. -- deeper dig down. Sitting here today,  
10 you don't know of anybody at Cardinal that  
11 bothered to do that you, do?

12 MR. PYSER: Object to form.

13 A. I have no knowledge.

14 MR. FULLER: Let's go on, Gina, next  
15 slide. Yes, West Virginia. Oh, this is the  
16 total. Yeah, let's go to the total.

17 BY MR. FULLER:

18 Q. Another explanation Mr. Brantley mentioned  
19 was maybe other wholesaler distributors were more  
20 primary in Illinois versus Ohio. Fair part of our  
21 investigation, you would agree, correct?

22 A. It's a possibility.

23 Q. So this is all distributors. The graph  
24 looks the same, doesn't it?

1 A. (Witness nodding.)

2 Q. From --

3 A. Very similar.

4 Q. -- from 2006 to 2014, over that entire

5 year, all distributors into these respective

6 states only put in 351 million pills into

7 Illinois, and 2.1 billion pills into Ohio, six

8 times?

9 DEFENSE COUNSEL: Objection to

10 form.

11 BY MR. FULLER:

12 Q. Six times the difference, right?

13 DEFENSE COUNSEL: Objection to form.

14 A. Right.

15 BY MR. FULLER:

16 Q. I mean, how do people take that many pills

17 in the state of Ohio?

18 MR. PYSER: Object to form.

19 BY MR. FULLER:

20 Q. It doesn't seem right, does it?

21 A. I don't -- without having further

22 information, I can't speculate.

23 Q. It's the investigative process that should

24 have been done years ago, right?

1 Q. Let's go to West Virginia. Now, West  
2 Virginia is another state over from Ohio, right,  
3 going east? You're aware of West Virginia is --

4 A. Correct.

5 Q. -- a much smaller state though, right?

6 A. I...

7 Q. I'll tell you. You'll see. 1.8 million  
8 people compared to the 12.8 of Illinois. You  
9 would expect to see more pills going into Illinois  
10 than West Virginia, all things being equal,  
11 correct?

12 A. Possibly.

13 Q. I mean, seven times smaller?

14 A. Again, depends.

15 Q. It depends on whether we're dumping pills  
16 into a state or we're complying with our  
17 regulatory requirements, right?

18 MR. PYSER: Object to form.

19 A. It depends on the number of pharmacies,  
20 customer type.

21 BY MR. FULLER:

22 Q. Let's look at it. 2006, 4.9 million pills  
23 into Illinois again. Same number, 10.5 million  
24 into West Virginia.

1 2007, let's keep going, 2008, 2009, 2010,

2 '11, '12, all the way to '14. Let's do the total.

3 Population of 12.8 in Illinois, only 1.8

4 in West Virginia, 7 times the difference and yet

5 you've got almost double the pills. Someone at

6 Cardinal should have picked up on this as well,

7 correct?

8 MR. PYSER: Object to form.

9 BY MR. FULLER:

10 Q. Right?

11 A. If they had the info.

12 Q. This is Cardinal's numbers. Cardinal had

13 the info, right? I mean, come on. Cardinal's

14 making these sales. You know that Cardinal tracks

15 where its making sales. You know they do track

16 where they're making sales, don't you?

17 A. They would.

18 Q. They do all

19 distribution of pills, don't they?

30 MR PYSER: Object

21           A       I don't know the detail on what the

22 RY. MR. FULLER:

© 2013 [www.annualreviews.org](http://www.annualreviews.org)

---

1 MR. PYSER: Object to form.

2 A. They would do sales analysis.

3 BY MR. FULLER:

4 Q. And then let's look at the number of  
5 customers. There are less than half as many  
6 customers in West Virginia that Cardinal is  
7 serving, 765 pharmacies compared to 1,700 in  
8 Illinois, right?

9 A. It's what it says.

10 Q. So that means they must have been dumping  
11 nearly double the amount of pills through each  
12 pharmacy in West Virginia if the numbers are going  
13 to make sense, correct?

14 MR. PYSER: Object to form.

15 A. I don't have enough information to --

16 BY MR. FULLER:

17 Q. Well --

18 A. I can see totals.

19 Q. Right. And you can see that there's more  
20 than double the amount of pills having to run  
21 through those 765 pharmacies to make up that pill  
22 count, correct?

23 A. That's what the numbers say.

24 Q. And based on your investigative

1 background, that's going to send up red flags  
2 that -- hey, what's going on in West Virginia, we  
3 need to take a look at this.

4 That's the whole idea behind the  
5 suspicious order system, isn't it?

6 MR. PYSER: Object to form.

7 A. To monitor customer purchases.

8 BY MR. FULLER:

9 Q. Monitor the purchases, monitor how many  
10 pills are going into the different communities  
11 around the country, right?

12 A. Well, that would tie to -- the customer  
13 monitoring would tell you.

14 Q. Right. Because all these pharmacies are  
15 in, you know, Cleveland, Ohio; Summit County,  
16 Ohio; West Virginia; Mount Gay; Kermit, West  
17 Virginia. I'm sure you've heard some of the --  
18 did you watch the congressional testimony of that  
19 Mr. Barrett gave?

20 MR. PYSER: Object to form.

21 Objection compound.

22 A. I did not.

23 BY MR. FULLER:

24 Q. Why not?

1 A. Correct.

2 BY MR. FULLER:

3 Q. You want to look and see why is this  
4 happening. And here's the shocking thing. The  
5 people within Cardinal -- there are people within  
6 Cardinal that had this information. You can't  
7 deny that, can you?

8 MR. PYSER: Object to form.

9 A. I can't deny it. I just don't know for  
10 sure, but --

11 BY MR. FULLER:

12 Q. It's their sales data?

13 A. I would assume that's sales data, yeah.

14 Q. You also know they knew who their  
15 customers were?

16 MR. PYSER: Object to form.

17 BY MR. FULLER:

18 Q. Right? They have to, correct?

19 A. Correct.

20 Q. And no one ever brought this to your  
21 attention?

22 MR. PYSER: Object to form.

23 A. Not that, no.

24 BY MR. FULLER:

1 BY MR. FULLER:

2 Q. Okay. Well, let's limit my question to up  
3 to the end of 2007.

4 It was Cardinal's practice to report  
5 suspicious customers, not suspicious orders,  
6 right?

7 MR. PYSER: Object to form.  
8 Misstates evidence.

9 A. Well, the ingredient limit report showed  
10 both, the customer and the orders.

11 BY MR. FULLER:

12 Q. Fair enough, fair enough.

13 And those are all the orders -- the  
14 suspicious orders that Cardinal shipped over the  
15 years, right?

16 MR. PYSER: Object to form.

17 A. They did ship.

18 BY MR. FULLER:

19 Q. And that was the same practice. Whether  
20 it was out at the Wheeling center, the Lakeland  
21 center, the Valencia center, wherever else they  
22 had distribution centers, that was the same  
23 practice everywhere, right, correct?

24 A. Correct.

1 Cardinal Health complied with 21 CFR 1301.74(b).

2 Can be describe that for me?

3 A. Yes. Employees who worked in the cage  
4 involved -- that filled orders were tasked with  
5 monitoring the auto process, and if there was  
6 anything that they identified based on their  
7 knowledge of customers, like customers, and  
8 they -- they had the obligation and the ability to  
9 pull that order and hold that order.

10 Q. You were also asked about Exhibit P in the  
11 DEA compliance manual. You can just look at it on  
12 the screen.

13 A. Yes.

14 Q. Do you recall some questions on that?

15 A. Yes.

16 Q. Is every order above the limit in Exhibit  
17 P, the poster that's up in the cage and vault --  
18 is that necessarily a suspicious order?

19 A. No.

20 Q. In the event that someone working in the  
21 cage and vault saw an order above the posted limit  
22 but did not think it was of unusual size,  
23 frequency or pattern, what would Cardinal Health's  
24 policies have expected them to do?

1 MR. PAPANTONIO: Objection as to

2 what anybody thought about a pattern.

3 A. They would process the order and allow it  
4 to be shipped.

5 BY MR. PYSER:

6 Q. Were there times when Cardinal Health  
7 sought guidance from DEA as to what to do next on  
8 an order that had been flagged as an order of  
9 interest?

10 A. Yes.

11 Q. How did that work?

12 A. Local distribution center would contact  
13 the local DEA office.

14 Q. Now, the process may be different today,  
15 but back, say, in 2007, how did the process work  
16 for filling orders of a controlled substances for  
17 say a hospital in the cage and vault?

18 A. Well, depending on the product -- so if  
19 it's a Schedule II product, DEA form 222 comes in  
20 and that's reviewed by the order entry person to  
21 make sure that it's filled out completely and  
22 according to the regulations.

23 And if there are no alterations, it's  
24 signed and dated. And if it looks okay per the

1

2 (Exhibit No. 43 marked for  
3 identification.)

4

5 BY MR. PAPANTONIO:

6 Q. What do you have in front of -- you see  
7 what we're reading in front of you right now?

8 A. I have --

9 Q. It's got your name on top of it, right?

10 A. Yes.

11 Q. And it says -- now, this is -- I don't  
12 believe they asked you about this when they  
13 brought this up, so let me ask you about it.

14 "HDMA met with DEA officials last Friday,  
15 September 7." You were at that meeting, is that  
16 right, Mr. Reardon?

17 A. No.

18 Q. Well, is -- this is your -- you simply are  
19 passing this on, is that correct? It's got your  
20 name on top of it, right?

21 A. Correct.

22 Q. It says "Summary of DEA meeting."  
23 Do you see that?

24 A. Yes.

1 Q. And this is your summary, correct?

2 A. It's my summary of the DEA conference, not  
3 the HDMA meeting.

4 Q. Okay. Well, let's see what you said about  
5 the conference.

6 "HDMA met with DEA officials last Friday,  
7 September 7, to discuss the agency's current  
8 policy position on suspicious orders of controlled  
9 substances. A summary highlight, the key points  
10 made during the meeting are attached for your  
11 review.

12 "DEA is setting a new standard with which  
13 we must comply. This is all coming about as a  
14 result of the problems with the Internet  
15 pharmacies and controlled substances diversion.  
16 Recently, they suspended an ABC registration and  
17 used the suspension to get them to implement a  
18 complex and onerous suspicious order monitoring  
19 program that meets the criteria spelled out in the  
20 HDMA."

21 What is the HDMA?

22 MR. PYSER: Object to form.

23 BY MR. PAPANTONIO:

24 Q. What is the HDMA?

1 A. Trade association.

2 Q. Right. It's the trade association you  
3 were a member of, correct?

4 A. Yes.

5 Q. And you're describing the new standard  
6 that I think you just talked about. You're  
7 describing it as complex, onerous. That's --  
8 those are your words, right, "complex" and  
9 "onerous"?

10 A. Yes.

11 Q. And then it's -- what's complex and  
12 onerous about it?

13 A. Primarily it's a change to the business  
14 model and the impact on customers who are going to  
15 have to come up with new inventory management  
16 processes and how they manage their inventory and  
17 how they order their stock and then opening up to  
18 site visits.

19 Q. So you were worried about your customers.  
20 Is that what you're telling me? This new change,  
21 you're worried about your customers. Is that your  
22 testimony?

23 MR. PYSER: Object to form.

24 Misstates testimony.

1 BY MR. PAPANTONIO:

2 Q. Right?

3 MR. PYSER: Object to form.

4 BY MR. PAPANTONIO:

5 Q. You said it was going to be too onerous  
6 and complex for customers?

7 A. It's a change in the business model for  
8 the customers.

9 Q. It says "Recently they suspended the ABC  
10 registration." Then goes on to say,  
11 "ABC presented their program at the DEA industry  
12 conference this week that I attended."

13 DEFENSE COUNSEL: Objection to form.

14 BY MR. PAPANTONIO:

15 Q. It says "I attended," right?

16 A. This is two separate meetings.

17 Q. Okay. Well, let's ask. It says "ABC  
18 presented their program at the DEA industry  
19 conference" -- were you there --

20 A. Yes.

21 Q. Okay. -- "this week that I attended and I  
22 have attached a copy of the presentation. DEA  
23 referred to ABC program as the new industry  
24 standard. I will be setting up a meeting to

1       initiate discussions on this topic in the near  
2       future. Additionally, I'm aware that MCK" -- what  
3       is MCK?

4           A.    McKesson.

5           Q.    -- "is in ongoing negotiations DEA related  
6       to -- related to an order to show cause. An order  
7       to show cause effects the registrant and the  
8       opportunity to argue why a registration should be  
9       suspended," right?

10           Is that what it said?

11           A.    Correct.

12           Q.    Look at the last paragraph. These are  
13       your words, aren't they? These are your words?

14           A.    Yes.

15           Q.    "We need to be proactive and implement a  
16       program that we develop that will satisfy DEA  
17       expectations and that is not dictated to us by the  
18       agency pursuant to the regulatory actions."

19           You didn't want to be dictated to by the  
20       DEA. That's what this says, right?

21                   MR. PYSER: Objection.

22           A.    No, we didn't.

23                   MR. PYSER: Object to form.

24       BY MR. PAPANTONIO: